

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY PAUL SMITH,

Plaintiff,

v.

MUNICIPALTY OF FRESNO COUNTY,  
et al.,

Defendants.

No. 2:21-cv-01992 DJC AC

ORDER

Plaintiff, a former state prisoner proceeding pro se, filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 21, 2024, the Magistrate Judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 155.) Neither party filed objections to the findings and recommendations.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and by the Magistrate Judge's analysis. Having considered the factors in *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992) the

1 Court finds that dismissal is appropriate. Given the significant time and resources that  
2 have been devoted to this case, however, the Court will dismiss this action *with*  
3 *prejudice*. As this was not the recommendation of the Magistrate Judge, the Court  
4 issued an Order to Show Cause why the case should not be dismissed with prejudice.  
5 (ECF No. 156.) Plaintiff did not file a response.

6 Accordingly, IT IS HEREBY ORDERED:

- 7 1. The Findings and Recommendations of the Magistrate Judge (ECF No. 155)  
8 are ADOPTED IN PART.
- 9 2. This action is DISMISSED WITH PREJUDICE pursuant to Federal Rule of Civil  
10 Procedure 41(b).
- 11 3. The pending motions for summary judgment (ECF Nos. 135, 144) are  
12 DENIED AS MOOT.
- 13 4. The Clerk of the Court is directed to close this case.

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16 IT IS SO ORDERED.

17 Dated: **August 12, 2024**

  
Hon. Daniel J. Calabretta  
UNITED STATES DISTRICT JUDGE

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